

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

J.R., a minor, and Jane Roe,  
individually and in her capacity as  
guardian and parent of Plaintiff J.R.,

Plaintiffs,

v.

Michele Mancino, Thomas E.  
Aspinwall, Telegram Messenger Inc.  
(d/b/a “Telegram”), and Perry Street  
Software (d/b/a “Scruff”),

Defendants.

Civil Action No.: 2:23-2519-BHH

**ORDER**

Plaintiffs filed this action on June 7, 2023, alleging, *inter alia*, claims of assault and battery, negligence, civil conspiracy, intentional infliction of emotional distress, invasion of privacy, products liability, unfair trade practices, and violations of 18 U.S.C. §§ 1595, 1591, and 2255. (ECF No. 1.) On December 20, 2023, Plaintiffs filed a request for entry of default as to Defendant Perry Street Software (d/b/a “Scruff”) (“Perry”), which the Clerk entered. (ECF Nos. 22 and 23.) On January 3, 2024, Defendant Perry filed a motion to set aside the Clerk’s entry of default and a motion to dismiss pursuant to Rules 12(b)(2), (4), and (5) of the Federal Rules of Civil Procedure. (ECF No. 24.) In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(e), D.S.C., this matter was referred to a United States Magistrate Judge for preliminary review.

On February 9, 2024, Magistrate Judge Mary Gordon Baker issued a Report and Recommendation (“Report”), outlining the issues and ordering that Perry’s request to set aside the Clerk’s entry of default against it be granted and recommending that the Court deny Defendant’s motion to dismiss. The Magistrate Judge further recommended that

Plaintiffs be given two weeks from the date of this Court's order on the Report to serve Defendant Perry with a signed summons, and that this Court request that Defendant Perry's counsel of record in this litigation accept service on Defendant Perry's behalf. Attached to the Report was a notice advising the parties of the right to file written objections to the Report within fourteen days of being served with a copy. To date, no objections have been filed.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'") (quoting Fed. R. Civ. P. 72 advisory committee's note).

Here, because no objections were filed, the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. After review, the Court finds no clear error and agrees with the Magistrate Judge's findings and recommendations. **Accordingly, the Court hereby adopts and incorporates the Magistrate Judge's Report (ECF No. 35); denies Defendant Perry's motion to**

**dismiss (ECF No. 24), as set forth in the Report**; instructs Plaintiffs to serve Defendant Perry within **two weeks** of the date of this order (if Plaintiffs have not done so already); and recommends that counsel of record for Defendant Perry accept service on Defendant Perry's behalf.

**IT IS SO ORDERED.**

/s/Bruce H. Hendricks  
United States District Judge

March 18, 2024  
Charleston, South Carolina